

Section I - GENERAL INFORMATION (Page 2)

(c) Check one of the following boxes:

- ☐ Application for NEW station
- ☒ MAJOR change in licensed facilities; call sign: KECC
- ☐ MINOR change in licensed facilities; call sign: (formerly KIOX AM)
- ☐ MAJOR modification of construction permit; call sign: \_\_\_\_\_
- File No. of construction permit: \_\_\_\_\_
- ☐ MINOR modification of construction permit; call sign: \_\_\_\_\_
- File No. of construction permit: \_\_\_\_\_
- ☐ AMENDMENT to pending application; Application file number: \_\_\_\_\_

NOTE: It is not necessary to use this form to amend a previously filed application. Should you do so, however, please submit only Section I and those other portions of the form that contain the amended information.

4. Is this application mutually exclusive with a renewal application?

☐ Yes ☒ No

If Yes, state:

Call letters	Community of License	
	City	State

3

## Section V-A - AM BROADCAST ENGINEERING DATA

## FOR COMMISSION USE ONLY

File No. \_\_\_\_\_

ASB Referral Date \_\_\_\_\_

Referred by \_\_\_\_\_

Name of Applicant

CHANELEON RADIO CORP.

## 1. Purpose of Application: (check all appropriate boxes)

☐ Construct new station☒ Make changes in authorized/existing stationCall Sign KFCC☒ Principal authorized/licensed community☐ Hours of operation☐ Frequency☐ Transmitter location☒ Power☐ Filed in compliance with an Allotment Plan to migrate to the expanded band☐ Main studio location

Allotment Number \_\_\_\_\_

☒ Antenna system/including increase in height by addition of FM or TV antenna☒ New antenna construction☐ Alteration of existing structure☐ Increase height☐ Decrease height☐ Non-DA to DA☐ DA to Non-DA☐ Other (Summarize briefly the nature of the changes proposed)

## 2. Principal community to be served:

State TX	County Fort Bend	City or Town Missouri City
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## 3. Facilities requested:

Frequency: 1270 kHz

Hours of Operations: \_\_\_\_\_

Power: Night: 0.850 kW Day: 2.50 kW Critical hours: \_\_\_\_\_ kW

Class of Station (A,B,C or D)

B☐ Stereo☒ Monaural

## 4. Transmitter location:

State TX	County Harris	City or Town Missouri City
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Exact antenna location (street address). If outside city limits, give name of nearest town and distance (in kilometers), and direction of antenna from town. 0.28 km (0.170 mi) east/southeast of intersection of Riceville School Road and Cravens Road on a bearing of 100° from intersection. Geographical coordinates (to nearest second). For directional antenna give coordinates of center of array. For single vertical radiator give tower location. Specify South Latitude or East Longitude where applicable; otherwise, North Latitude or West Longitude will be presumed.

Latitude	29 °	38 '	10 "	Longitude	95 °	32 '	22 "
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SECTION V-A - AM BROADCAST ENGINEERING DATA (Page 2)

5. Is the proposed site the same transmitter-antenna site of other stations authorized by the Commission or specified in another application pending before the Commission? ☐ Yes ☒ No

If Yes, indicate call sign or application file number: \_\_\_\_\_

6. Antenna system (including ground or counterpoise system)

Non-Directional ☐ Day ☐ Night ☐ Critical Hours

Estimated efficiency \_\_\_\_\_ mV/m per kW at one kilometer

If antenna is either top loaded or sectionalized, describe fully in an Exhibit (include apparent electrical height.)

Exhibit No.

Directional ☐ Day only (DA-D) ☐ Night only (DA-N)  
☐ Same constants and power day and night (DA-1)  
☒ Different constants and/or power day and night (DA-2)  
☐ Different constants and/or power day, critical hours and night (DA-3)

Submit complete engineering data in accordance with 47 C.F.R. Section 73.150 for each Directional antenna pattern proposed.

Non-directional/Directional

If antenna(s) is/are either top loaded or sectionalized, describe fully in an Exhibit (include apparent electrical height.)

Exhibit No.  
E - 1

Type of feed circuits (excitation) ☐ Series Feed ☐ Shunt Feed  
☒ Folded Unipole ☐ Other (explain)

TOWERS (In meters, rounded to nearest meter)	1	2	3	4	5	6
Overall height of radiator above base insulator, or above base, if grounded	43	55	43	43		
Overall height above ground (without obstruction lighting)	43	55	43	43		
Overall height above ground (include obstruction lighting)	43	55	43	43		
Overall height above mean sea level (include obstruction lighting)	66	78	66	66		

If additional towers, attach information exactly as it appears above.

7. Has the FAA been notified of the proposed construction? ☒ Yes ☐ No

If Yes, give date and office where notice was filed and attach as an Exhibit a copy of FAA determination, if available.

Exhibit No.  
E-2

Date 4/22/95 Office where filed Southwest Regional, Ft. Worth, TX

(5)

SECTION V-A - AM BROADCAST ENGINEERING DATA (Page 3)

8. List all landing areas within 8 kilometers of antenna site. Give distances and direction to the nearest boundary of each landing area from the antenna site.

Landing Area	Distance (km)	Direction
(a) <u>No Landing area within 8 KM of site</u>		
(b) _____	_____	_____
(c) _____	_____	_____

9. Attach as an Exhibit a description and vertical plan sketch (including supporting buildings, if any) of the proposed structure, giving heights above ground, in meters, for all significant features. Clearly indicate existing portions, noting lighting, and distinguishing between the skeletal or other main supporting structure and the antenna elements. If a directional antenna, give spacing and orientation of towers.

Exhibit No.  
E - 3

If not fully described above, attach as an Exhibit further details and dimensions, including any other antennas mounted on tower and associated isolation circuits.

Exhibit No.

Attach as an Exhibit, a plat of the transmitter site clearly showing boundary lines, roads, railroads, other obstructions, and the ground system or counterpoise. Show number and dimensions of ground radials or, if a counterpoise is used, show heights and dimensions.

Exhibit No.  
E - 4

10. Will the main studio be located within the station's principal community contour as defined by 47 C.F.R. Section 73.24(l)?

☒ Yes ☐ No

If No, attach as an Exhibit a justification pursuant to 47 C.F.R. Section 73.1125.

Exhibit No.

11. Is there a remote control location or is one to be established in accordance with 47 C.F.R. Section 73.1400?

☒ Yes ☐ No

If yes, submit the following:

State TX	County Harris	City or Town Houston
Street address (or other identification) 10865 Rockley Road		

12. Attach as an Exhibit a sufficient number of aerial photographs taken in clear weather at appropriate altitudes and angles to permit identification of all structures in the vicinity. The photographs must be marked so as to show compass directions, exact boundary lines of the proposed site, and locations of the proposed 1000 mV/m contour for both day and night operation. Photographs taken in eight different directions from an elevated position on the ground will be acceptable in lieu of the aerial photographs if the data referred to can be clearly shown.

Exhibit No.  
E - 5

13. Is the population within the 1 V/m (1000 mV/m) contour less than 300 persons or less than 10 percent of the population within the 25 mV/m contour?

☒ Yes ☐ No

If No, attach as an Exhibit a justification pursuant to 47 C.F.R. Section 73.24(g).

Exhibit No.

14. Environmental Statement. (See 47 C.F.R. Section 1.1301 et seq.)

(a) Would a Commission grant of this application come within 47 C.F.R. Section 1.1307, such that it may have a significant environmental impact?

☐ Yes ☒ No

If you answer Yes, submit as an Exhibit an Environmental Assessment required by 47 C.F.R. Section 1.1311.

Exhibit No.

If No, explain briefly why not. EXHIBIT: E - 6

(6)

4 Meters

(b) Distance from tower(s) to the nearest point of the fence enclosing the tower(s) in meters.

**SECTION V-A - AM BROADCAST ENGINEERING DATA (Page 4)**

**15. Allocation Studies**

**A. Daytime** *(For assistance, see 47 C.F.R. Section 73.37)*

- (1) For daytime operation, attach as an exhibit map(s) having appropriate scales, showing the 1000, 5, 2 and 0.5 (0.1, if Class A station) daytime contours in mV/m for both existing and proposed operations. On the map(s) showing the 5 mV/m contours **CLEARLY INDICATE THE LEGAL BOUNDARIES OF THE PRINCIPAL COMMUNITY TO BE SERVED.**

Exhibit No.  
E - 7

E - 8  
E - 12

- (2) Does the daytime 5 mv/m contour encompass the legal boundaries of the principal community to be served?

☒ Yes ☐ No

If No, attach as an Exhibit a justification for waiver of 47 C.F.R. Section 73.24(i).

Exhibit No.

- (3) For daytime operation, for stations on a frequency between 535 kHz and 1605 kHz, attach as an Exhibit an allocation study utilizing Figure M-3 *(Figure R-3 47 C.F.R. Section 73.190)* or an accurate full scale reproduction thereof and using pertinent field strength measurement data where available, a full scale exhibit of the entire pertinent area to show the following:

Exhibit No.  
E - 7

(a) Normally protected and the interfering contours for the proposed operation along all azimuths.

(b) Normally protected and interfering contours of existing stations and other proposed stations in pertinent areas with which prohibited overlap would result as well as those existing stations and other proposals which require study to clearly show absence of prohibited overlap. If prohibited overlap were to occur as a result of the proposal, appropriate justification for waiver of 47 C.F.R. Section 73.37 is to be included.

(c) Plot of the transmitter location of each station or proposal requiring investigation, with identifying call letters, file numbers, and operating or proposed facilities.

(d) Properly labeled longitude and latitude degree lines, shown across entire Exhibit.

- (4) For daytime operation, attach as an Exhibit a tabulation of the following:

Exhibit No.  
E - 9

(a) Azimuths along which the groundwave contours were calculated for all stations or proposals shown on allocation study exhibits required by (3Xa).

(b) Inverse distance field strength used along each azimuth.

(c) Basis for ground conductivity utilized along each azimuth specified in (4Xa). If field strength measurements are used, submit copies of the analyzed measurements. If measurement data are taken from Commission records identify the source of the measurements in the Commission's files.

(d) Calculated distances.

**B. Critical Hours** *(If applicable, see 47 C.F.R. Section 73.187)*

- (1) For critical hour operation, attach as an Exhibit map(s) having appropriate scales, showing the 1000, 5 and 0.5 critical hours contours in mV/m for both existing and proposed operations. On the map(s) showing the 5 mV/m contours **CLEARLY INDICATE THE LEGAL BOUNDARIES OF THE PRINCIPAL COMMUNITY TO BE SERVED.**

Exhibit No.  
N/A

- (2) Does the critical hours 5 mV/m contour encompass the legal boundaries of the principal community to be served?

☐ Yes ☐ No

If No, attach as an Exhibit justification for waiver of 47 C.F.R. Section 73.24(i).

Exhibit No.

- (3) For critical hours operation, attach as an Exhibit an allocation study utilizing Figure M-3 *(Figure R-3 47 C.F.R. Section 73.190)* or an accurate full scale reproduction thereof and using pertinent field strength measurement data where available, a full scale exhibit of the entire pertinent area to show the following: The 0.1 mV/m groundwave contour pertinent arcs of Class A stations and appropriate studies to establish compliance with 47 C.F.R. Section 73.187 when operation is proposed on a U.S. Class A channel.

Exhibit No.

7

SECTION V-A - AM BROADCAST ENGINEERING DATA (Page 5)

C. Nighttime. *(for assistance, see 47 C.F.R. Section 73.182)*

- (1) For nighttime operation, attach as an Exhibit map(s) having appropriate scales, showing the 1000 mV/m and coverage contours (appropriate minimum protected value for proposed class of station, or RSS nighttime interference-free contour, whichever is the greater value) for both existing and proposed operations. On the map(s) showing the interference-free contours, CLEARLY INDICATE THE LEGAL BOUNDARIES OF THE PRINCIPAL COMMUNITY TO BE SERVED.

Exhibit No.

E - 8

E - 10

- (2) Does the nighttime 5 mV/m or nighttime interference free contour (whichever is higher) encompass 80% of the principal community to be served (50% for expanded band 1605-1705 kHz stations)?

☒ Yes ☐ No

If No, attach as an Exhibit justification for waiver of, or exemption pursuant to 47 C.F.R. Section 73.24(1).

Exhibit No.

- (3) For nighttime operation, for stations on a frequency between 535 kHz and 1605 kHz, attach as an Exhibit allocation data including the following:

Exhibit No.

E - 11

- (a) Proposed nighttime limitation to other existing or proposed stations with which objectionable interference could result, as well as those other proposals and existing stations which require study to show clearly absence of objectionable interference.
- (b) All existing or proposed nighttime limitations which enter into the nighttime RSS limitation of each of the existing or proposed facilities investigated under (3)(a) above.
- (c) All existing and proposed limitations which contribute to the RSS nighttime limitation of the proposed operation, together with those limitations which must be studied before being excluded.
- (d) A detailed interference study plotted upon an appropriate scale map if a question exists with respect to nighttime interference to other existing or proposed facilities along bearing other than on a direct line toward the facility considered. (Clipping study)
- (e) The detailed basis for each nighttime limitation calculated under (3)(a), (b), (c) and (d) above.

16. Attach as an Exhibit a map 17.5 minute U.S. Geological Survey topographic quadrangles, if available, of the proposed antenna location showing the following information:

Exhibit No.

E - 8

- A. Proposed transmitter location accurately plotted with the latitude and longitude lines clearly marked and showing a scale in kilometers.
- B. Heights of buildings or other structures and terrain elevations in the vicinity of the antenna, indicating the location thereof.
- C. Transmitter location and call signs of non-broadcast radio stations (except amateur and citizens band), established commercial and government receiving stations in the general vicinity which may be adversely affected by the proposed operation.
- D. Transmitter location and call letters of all AM, FM and TV broadcast stations within three (3) kilometers of the proposed antenna location.

8

## CERTIFICATION

I certify that I have prepared this Section of this application on behalf of the applicant, and that after such preparation, I have examined and found it to be accurate and true to the best of my knowledge and belief.

Name <i>(Typed or Printed)</i> Don Werlinger	Relationship to Applicant <i>(e.g., Consulting Engineer)</i> President
Signature	Address <i>(Include ZIP Code)</i> 10865 Rockley Road Houston, Texas 77099
Date 7/31/95	Telephone No. <i>(Include Area Code)</i> (713) 575-1270 fax 564-8653

(9)

SECTION VI - EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

1. Does the applicant propose to employ five or more full-time employees?

N/A

☐ Yes ☐ No

If Yes, the applicant must include an EEO program called for in the separate Broadcast Equal Employment Opportunity Program Report (FCC 396-A).

SECTION VII - CERTIFICATIONS

1. Has or will the applicant comply with the public notice requirement of 47 C.F.R. Section 73.3580?

☒ Yes ☐ No

2. Has the applicant reasonable assurance, in good faith, that the site or structure proposed in Section V of this form, as the location of its transmitting antenna, will be available to the applicant for the applicant's intended purpose?

☒ Yes ☐ No

If No, attach as an Exhibit, a full explanation.

Exhibit No.

3. If reasonable assurance is not based on applicant's ownership of the proposed site or structure, applicant certifies that it has obtained such reasonable assurance by contacting the owner or person possessing control of the site or structure.

Name of Person Contacted Applicant owns proposed site under lease/purchase agreement.

Telephone No. (include area code) \_\_\_\_\_

Person contacted: (check one box below)

☐ Owner

☐ Owner's Agent

☐ Other (specify)

4. By checking Yes, the applicant certifies that, in the case of an individual applicant, he or she is not subject to a denial of federal benefits that includes FCC benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862, or, in the case of a non-individual applicant (e.g., corporation, partnership or other unincorporated association), no party to the application is subject to a denial of federal benefits that includes FCC benefits pursuant to that section. For the definition of a "party" for these purposes, see 47 C.F.R. Section 1.2002(b).

☒ Yes ☐ No

The APPLICANT hereby waives any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

The APPLICANT acknowledges that all the statements made in this application and attached exhibits are considered material representations, and that all exhibits are a material part hereof and incorporated herein.

The APPLICANT represents that this application is not filed for the purpose of impeding, obstructing, or delaying determination on any other application with which it may be in conflict.

In accordance with 47 C.F.R. Section 1.65, the APPLICANT has a continuing obligation to advise the Commission, through amendments, of any substantial and significant changes in information furnished.



SECTION VII - CERTIFICATION (Page 2)

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT  
(U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT  
(U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

I certify that the statements in this application are true and correct to the best of my knowledge and belief, and are made in good faith.

Name of Applicant <b>Chameleon Radio Corporation</b>	Signature <b>Don Werlinger</b>
Date <b>7/31/95</b>	Title <b>President</b>

FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT  
AND THE PAPERWORK REDUCTION ACT

The solicitation of personal information requested in this application is authorized by the Communications Act of 1934, as amended. The Commission will use the information provided in this form to determine whether grant of the application is in the public interest. In reaching that determination, or for law enforcement purposes, it may become necessary to refer personal information contained in this form to another government agency. In addition, all information provided in this form will be available for public inspection. If information requested on the form is not provided, processing of the application may be delayed or the application may be returned without action pursuant to the Commission's rules. Your response is required to obtain the requested authority.

Public reporting burden for this collection of information is estimated to vary from 72 hours 40 minutes to 347 hours 25 minutes with an average of 213 hours 32 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, can be sent to the Federal Communications Commission, Information Resources Branch, Room 416, Paperwork Reduction Project, Washington, D.C. 20554, and to the Office of Management and Budget, Paperwork Reduction Project (3060-0027), Washington, D.C. 20503.

THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, P.L. 93-579, DECEMBER 31, 1974, 5 U.S.C. 552a(e)(3), AND THE PAPERWORK REDUCTION ACT OF 1980, P.L. 96-511, DECEMBER 11, 1980, 44 U.S.C. 3507.

(11)

## **ENGINEERING STATEMENT**

Chameleon Radio Corporation - Licensee: Radio Station KFCC

Bay City, Texas Has: 1270 kHz, 1 kw-U, DA-2

Seeks: Change City of License to Missouri City, Texas

1270 kHz, 2.5 kw-D, .850 kw-N, U, DA-2

### **General Statement**

This Engineering Statement was prepared in support of an application by Chameleon Radio Corporation (Chameleon), licensee of Radio Station KFCC (formerly KIOX) at Bay City, Texas (1270 kHz, 1 kw-U, DA-N). In its application, Chameleon seeks to make the following major changes in KFCC:

1. Change Transmitter location;
2. Increase Daytime power to 2.500 kw - Directional
3. Decrease Nighttime power to 0.850 kw - Directional (different constants from Daytime)
4. Change City of License to Missouri City, Texas as that city's first locally licensed broadcast facility.

Attached is Section V - A of FCC form 301 and related exhibits.

The proposed operation of KFCC meets all current Commission rules for protection to licensed and proposed co-channel and adjacent channel operations with the exception of that of KWHI (1280 kHz, 1 kw - ND, D) at Brenham, Texas. However, the KFCC directional daytime pattern herein proposed will create no new overlap and, as explained further below, currently licensed overlap between the 0.50 mV/m contours will be reduced by more than 80%.

The proposed night operation of KFCC meets all current Commission requirements for protection of co-channel and adjacent channel operations and provides one hundred percent (100%) of its proposed city of license (Missouri City) with an interference free signal.

### **Overlap Produced/Received - KWHI (1280 kHz), Brenham, Texas**

As currently licensed, KFCC and KWHI endure approximately 2,875 square kilometers (1,785 square miles) of overlap between their respective 0.50 mV/m contours. KWHI's 0.50 mV/m is licensed to receive approximately 5,580 square kilometers (3,465 square miles) of overlap produced by the 0.25 mV/m contour from the licensed KFCC site at Bay City and KFCC is licensed to receive 8,250 square kilometers (5,123 square miles) of overlap to its 0.50 mV/m from the 0.25 mV/m contour of KWHI (See Exhibit: E-12, Page: 1).

As proposed, the KFCC daytime directional array would generate no new overlap between the 0.50 mV/m contours of the two stations. In fact, as proposed the remaining KFCC/KWHI 0.50 mV/m overlap would be reduced to approximately 240 square kilometers (149 square miles), a reduction of 91.65% of the currently licensed 0.50 mV/m overlap between the two stations.

The reduction in the .50 mV/m to 0.25 mV/m contours between the two stations is also quite dramatic. As proposed, the KFCC daytime pattern reduces overlap between the KFCC .25 mV/m contour and the KWHI 0.50 mV/m contour to approximately 914 square kilometers (568 square miles), a reduction of 83.6% below the currently licensed overlap. As proposed, the KFCC 0.50 mV/m contour would receive overlap of approximately 2,860 square kilometers (1,775 square miles), a reduction of 65.33% below currently licensed overlap from KWHI..

By any measure, including the 2:1 ratio in the Commission's rules, the contours proposed in the instant application greatly reduce currently licensed overlap between KFCC and KWHI. Overlap between the 0.50 mV/m contours is all but eliminated and overlap between the .5 mV/m and .25 mV/m contours are reduced by two thirds and more than 80% respectively.

#### City of License Change

The enclosed application proposes to change the city of license for KFCC to Missouri City, Fort Bend County, Texas. This proposed change in the city of license complies with the Commission's rules and with Section 307 of the Communications Act of 1934, as amended in that it does not remove from Bay City, Texas that city's only broadcast facility. Bay City is also served by two (2) Class C FM facilities, KXGJ (269C1, 101.7 mHz, 100 kw, 299 m - HAAT, BMPH 921222IE), and KMKS (273C2, 102.5 mHz, 50 kw, 150 m - HAAT).

By contrast, the City of Missouri City (KFCC's proposed city of license), the largest incorporated city (population) in Fort Bend County, Texas, with one of the fastest growing county populations in the State of Texas (ranked 3rd fastest growing white collar county in the United States)(See Exhibit: E - 14) is currently without locally licensed broadcast service. According to U.S. Census population block information (See Exhibit: E - 13), the July, 1995 population of Missouri City is 42,498 persons which represents an increase of 17.5% over its 1990 population of 36,176 persons.

The reallocation of 1270 kHz to reflect Missouri City as KFCC's city of license is preferable to Bay City using any of the Commission's criteria. Missouri City's population is not only more than double that of Bay City (18,170, Source - U.S. Census Bureau), it is 5,570 persons greater than all of Matagorda County (36,928, Source - U.S. Census Bureau).

Fort Bend County, Texas (Population 290,841, Source - U.S. Census Bureau) is currently served by only two broadcast outlets, KMPQ AM (980 kHz, 1 kw, ND-D) and KLTO FM (285A, 104.9 mHz, 2.55 kw, 107 m, HAAT), each licensed to far west county cities Richmond and Rosenberg. Eastern Fort Bend County, which is home to more than 65% of the county's resident, currently has no locally licensed broadcast facility.

By contrast, in addition to the two Class C FM's licensed to Bay City cited above, Matagorda County also has a third FM allocated to Palacios (Channel 259A, 99.7 mHz, DOC 90-90).

### FAA Approval

The FAA previously gave an approval (95 ASW-0940-OE) to a form 7460-1 request (See Exhibit: E - 2, Page: 1) to construct a 54.86 meter (180 ft.) tower at the proposed site. On July 31, 1995, Chameleon Radio Corp contacted FAA Obstruction Evaluation Specialist David Beard regarding amending the request to include the additional three towers proposed in the application and the higher power of 2.5 kw-Day and the .850 kw-Night. Mr. Beard indicated the amendment could be accomplished by letter, a copy of which is included as Exhibit E - 2, Page: 2. Mr. Beard indicated he would grant approval of the amendment by letter, a copy of which will be transmitted to the ASB as soon as it is received.

### Conclusion

Both from a technical and an allocation point of view, the facilities changes proposed in the instant application are superior to the currently licensed facilities of KFCC. As proposed, KFCC's facilities dramatically decrease currently licensed overlap (both generated and received), and the proposed change in KFCC's city of license to Missouri City provides a rapidly growing city in a rapidly growing county with that city's first locally licensed broadcast outlet.

### Certification

I hereby certify that all the information contained in the exhibits associated with this application were either prepared by me directly or under my direct supervision. The information contained in said exhibits is true and accurate of my own knowledge or from information I believe to be true and accurate.

Date: July 31, 1995.

\_\_\_\_\_  
Don Werlinger, President  
Chameleon Radio Corporation

(14)



APPENDIX 11



KFCC

1270 AM

Chameleon Radio Corporation  
(713) 575-1270 Fax: (713) 564-8653

10865 Rockley Road Houston, TX 77099 P.O. Box 1235 Stafford, TX 77497

Houston's Unique Talk and International Language Station

August 4, 1995

Larry D. Eads, Chief  
Audio Services Division  
Mass Media Bureau  
Federal Communications Commission  
1919 M St., N.W.  
Washington, D.C. 20554

Re: Letter of Inquiry 1800B3-KDY (KFCC - AM, Bay City, Texas)

Dear Mr. Eads:

This narrative and the attached exhibits are offered in response to your Letter of Inquiry issued to Chameleon Radio Corporation (Chameleon) # 1800B3-KDY dated July 25, 1995.

Regarding the Special Temporary Authorization (STA) granted May 5, 1995 (as amended May 12, 1995), Chameleon Radio Corporation filed a request for extension of that STA on August 4, 1995. On that same date, (August 4, 1995), Chameleon Radio Corporation filed with the an FCC Form 301 request to make the current STA site a permanent location for the KFCC day and night operation specifying 2.5 kw -Day operation and 8.50 kw Night operation with different day and night constant (a copy of that application is transmitted herewith). The Form 301 also requests a change of the city of license for KFCC to Missouri City, Texas as provided by the Commission's rules.

Your Letter of Inquiry seeks to set the record straight on actions taken by Chameleon in order to secure the currently effective STA for KFCC Radio (formerly KIOX). The documents and information requested are attached as exhibits to this response and we will address each of them in order. Beyond those documents, Chameleon also submits additional information and documents which it feels more clearly develop the record regarding actions taken by Chameleon and those of other licensees which, taken as a whole support Chameleon's actions and further support Chameleon's request for an extension of its STA and immediate approval of its request to make the major changes in KFCC which are included in its currently pending form 301 application.

Federal Communications Commission

ocket No. 96-173 Exhibit No. App 11

resented by Chameleon

Disposition { Identified X

Received \_\_\_\_\_

~~Rejected~~ Withdrawn

Reporter JS

ite 2-24-97



Chameleon submits and the enclosed information clearly demonstrates that it was the actions by Susquehanna Radio Corporation and more particularly Salem Communications, which led to the extraordinary efforts of Chameleon to save both its business and the broadcast outlet it had developed for international language programmers in the Houston market. Susquehanna Radio Corp is involved to the extent that it terminated a five year LMA agreement only seven months into the pact. Salem is involved to the extent that it has systematically and with malice of forethought set about destroying first the business of KENR Management Company, Inc., and then that of its sister company Chameleon Radio Corporation. The very fact that Salem was first and until only three weeks ago, the only entity to object to Chameleon's STA with KFCC will be shown to clearly demonstrate that Salem has been engaged and continues to be engaged in competitive strike activities aimed at nothing more than destroying the financial viability of Chameleon.

To that end, Chameleon submits Exhibit: 1 which is a narrative explaining Chameleon's actions and those taken by sister company KENR Management Company, Inc. (the principals of both companies are identical). This narrative explains the efforts of KENR Management to provide commercial programming opportunities for ethnic groups which prior to KENR Management's arrival in the market had simply not been available. It explains the fact that KENR Management entered into a Five Year (60 month) Time Brokerage Agreement (LMA) with Susquehanna Radio Corporation (Susquehanna) then licensee of Radio Station KENR, Houston, Texas (1070 kHz, 10 kw-D, 5 kw-N, U, DA-2) on April 1, 1994.

In order to meet the Commission's requirements, the Time Brokerage Agreement maintained a ninety (90) day cancellation clause which would allow the licensee to terminate the agreement. Though this language is standard, KENR Management received verbal assurances from Susquehanna that no efforts would be made to sell KENR during the term of the LMA, allowing KENR Management to, in turn, make commitments to programmers wishing to place programming on the station.

The narrative explains KENR Management's efforts in making airtime available to ethnic groups and organizations which had never before in Houston had the opportunity to broadcast news, community events, and religious views and opinions in their native language. The effort resulted in more than 40 programmers representing 11 nationalities from five continents establishing programming on KENR in the first six months on the air. These programmers exhibited a high demand for a commercial broadcast outlet upon which to express their views as well as a faith in KENR Management's ability to remain on the air and provide them the services necessary to sustain the programming. KENR Management, relying on its five year commitment with Susquehanna, committed its resources and total effort to providing that service to the programmers.

On November 7, 1994, only seven months after KENR Management's commencing programming on KENR, KENR Management was informed by Susquehanna that it had sold the station and that KENR Management's LMA would be canceled as of Midnight, February 3, 1995. The station had been sold to the Salem Communications group (Salem) which would be operating in Houston as South Texas Broadcasting, Inc. At the same time, Salem had purchased KKZR-FM, a Conroe, Texas licensed FM which serves the Houston metro. Salem's purchase of the two stations would be consummated on the same day, March 3, 1995.

KENR Management had received no indication whatever from Susquehanna of the licensee's efforts to sell the KENR. The announcement came as a complete shock to both KENR Management and its quickly growing number of programmers. Inasmuch as Salem operated a large chain of stations which programmed a Christian format, it came as no; however, that Salem announced in the press that it would be changing for formats of both KKZR and KENR to Christian programming.

This sale and impending change in format for KENR meant two things to KENR Management. First, it meant that the tens of thousands of dollars and thousands of hours of work invested in its Houston LMA were apparently in vein. It meant that KENR Management Company, Inc. faced bankruptcy in spite of the one hundred thousand dollars it would be owed by Susquehanna as compensation for canceling the LMA. Relying on its five year commitment as part of its LMA, KENR Management Company, Inc. had signed a five year lease on studio and office facilities, making thousands of dollars of leasehold improvements. In addition to losing its leasehold improvements, it was still responsible for more than \$155,000 in lease payments during the 53 months remaining on its lease. Other contractual commitments would leave KENR Management Company with more than a quarter of a million dollars in obligations and, without benefit of the income provided by its programming, only \$100,000 in severance money to meet those commitments, a bleak circumstance indeed.

Secondly, and perhaps more importantly, the sale meant KENR Management could not meet its commitment to its programmers, who in turn, would not be able to meet their respective commitments and would no longer be able to provide the programming their communities. Like KENR Management, programmers had invested both time and money in establishing their various blocks of programming. In November, 1994, most of them had been on the air 120 days or less and only then beginning to establish both a substantial audience recognition of their presence and the financial support their eventual success would require. In short, loss the outlet at this point would be devastating both financially and in the various communities served by the groups on the air.

The fiduciary responsibility to its programmers was not taken lightly by KENR Management and the decision was made to put forth every effort possible to find an alternative place on the AM dial for KENR Management's programmers to produce their programming. KENR Management commenced conversations with several Houston area radio stations concerning the possibility of another LMA to replace that on KENR; however, no other licensee was receptive to KENR Management's offers.

It was at this point that KENR Management began conversations with Salem regarding an extension of its KENR LMA and to look at potential move-in AM's outside the immediate Houston market. Given the fact that Salem had paid \$2.75-million for KENR, KENR Management knew that no long term LMA extension with Salem would be financially possible. Hence, KENR began discussions with Salem principal Stewart Epperson regarding a short term, one year extension of its Susquehanna LMA in order to give it time locate and move an AM in order to have the coverage to support its programming. During the month of November, 1994 and early December, Mr. Epperson gave KENR Management President Don Werlinger repeated verbal assurances that Salem would entertain such an extension but stated that he would not commit to an agreement until a decision was made on who would manage the Houston properties purchased by Salem.

In the meantime, an accomplished propagational engineer whose work has resulted in dozens of AM and FM allocation changes and construction permits, set about a detailed allocation study in an attempt to locate an AM with a potential for covering the Houston metro. In mid December, Mr. Werlinger discovered KIOX (now KFCC) in Bay City, Texas. Operating with 1.0 kw, non-directional on 1270 kHz, KIOX placed a 0.50 mV/m contour over approximately 15% of the Houston metro from its site in Bay City. It also suffered a tremendous amount of overlap of its 0.50 mV/m contour from KWHI (1280 kHz, 1 kw-ND, D) at Brenham. Werlinger determined that, by relocating the KIOX transmitter site, increasing power, and utilizing a directional antenna system, KIOX could be improved to cover both the Bay City and Houston markets, thus accomplishing KENR Management's goal of maintaining a platform for its international language programmers.

Werlinger developed a three pronged plan. First, a new corporation would be formed which would make an offer to purchase KIOX which resulted in the formation of Chameleon Radio Corporation. At the same time, Werlinger determined to work diligently with Salem on a one year extension of KENR Management's LMA on KENR since Werlinger was aware that it would take six months or longer to first obtain the KIOX license and then to obtain the construction permit (CP) necessary to make the changes in KIOX. Finally, once KIOX was purchased, KENR Management would remain programming KENR while the KIOX CP was obtained and the new facility constructed.

Without being specific as to which station was to be purchased, Werlinger related his plan to Mr. Epperson of Salem who agreed the plan had merit and again stated Salem's desire to work with KENR Management on an extension of its KENR LMA. In late December, 1994, Mr. Epperson introduced Jamie Clark as the individual who would be operating Salem's AM/FM operation in Houston.

Werlinger and Clark met twice at KENR Management's offices in December, 1994. During the first meeting which occurred on or about December 21st, Werlinger explained his company's business to Clark and explained his plans to take his programming concept to a station he would purchase. At that meeting, Mr. Clark stated he was impressed with "what you've built here," and expressed his interest in Salem's purchase of KENR Management's programming contracts. Clark said he was returning to Salem's California headquarters but would be back in Houston in a week to further discuss the entire situation.

On Clark's second visit which occurred on or about December 28, 1994, he asked to examine KENR Management's contracts and was allowed to do so. Although reluctant to allow the inspection, Werlinger knew that as the licensee, Salem would have the right to examine the paperwork, so it was allowed. It was after his inspection of the contracts that Clark first stated that he was certain Salem would have no interest in purchasing all the programming from KENR Management since a number of programmers represented non-Christian faiths (Hindu, Muslim, etc.) which would not fit with Salem's plans for Christian programming for at least part of the day on KENR.

Clark suggested that, instead of entering into an LMA extension, that Salem would rather hire Werlinger as an independent contractor who would place programming (supposedly programming from KENR Management) on KENR. It became clear during the conversation that Clark had an interest in acquiring most of KENR Management's English language and secular international language programming but was not interested in any programming which was religious and non-Christian in nature. While such religious programming represented only 25% of KENR Management's total airtime commitments, numerically, the majority of programmers would be effected and would be left with no place to produce their programming.

Werlinger told Clark he had no interest whatever in becoming an agent for Salem. He restated his interest in entering into a one year extension of the LMA he had with Susquehanna so as to have the time necessary to acquire another station upon which to place his programming. However, the offer to acquire Mr. Werlinger's services as an agent of Salem would resurface four more times prior to May 8, 1995. Each time Mr. Werlinger would politely refuse the offer. In light of the record since that time, it is now clear that Mr. Clark returned to California at the end of December, 1994 and developed a business plan for KENR which included a large portion of KENR Management's programmers.

In the four weeks which followed, KENR Management learned that Salem planned to consummate its purchase of both KENR and KKZR on March 3, 1995 in Washington, DC. Through a series of conversations with Susquehanna vice president Charles Morgan and Salem principal Stewart Epperson, it was decided that Susquehanna's LMA with KENR Management would be extended from February 3, 1995 to March 3, 1995 under the same terms as before the termination notification in November, 1994. On March 3, 1995, a one year LMA was to be executed with Salem which was identical to the Susquehanna LMA with two exceptions. The first was that the LMA could be terminated upon a 30 day notice. The second was that the monthly LMA would increase to \$20,000.00 from the \$15,000.00 in the Susquehanna LMA. Though 25% more expensive than the Susquehanna LMA, the one year LMA with Salem would allow KENR Management the time necessary to provide itself with another outlet upon which to place its programmers and continue the service it had begun nearly a year earlier.

In early February, the principals of KENR Management Company, Inc. operating under the name Chameleon Radio Corporation, agreed with Landrum Enterprises, Inc., the licensee of radio station KIOX, Bay City, Texas to purchase that facility. The plan was to first purchase the station and then present the Commission with an application to change the station's city of license to Missouri City, Texas utilizing a new transmitter site, a directional day/night antenna system to remove much of the previously licensed overlap with KWHI, Brenham, Texas, and dramatically increase the population covered by the 0.5 mV/m contour of the station. During the application and construction process, KENR Management/Chameleon would rely on its one year LMA with Salem to maintain its outlet for its international language programmers. The application seeking transfer of the KIOX license was tendered February 17, 1995.

KIOX (KFCC) was an excellent facility for KENR Management's plans. It was one of three (each separately owned) broadcast facilities licensed to Bay City. Its removal to another city of license closer to Houston would leave Bay City with two broadcast outlets, both Class C FM's, and KIOX could become the first service for a community with a much larger population (Missouri City) closer to Houston. In the process, it could dramatically reduce the previously licensed overlap to KWHI in Brenham, Texas.

KIOX had either been simulcasting with its sister FM station or carrying the audio portion of CNN Headline News for a number of years. It had long since ceased to be a local presence in its community of license and had it not been for ability of its sister FM to cover its operating expenses, KIOX might well have already gone the way of more than two dozen other once thriving Texas AM stations and ceased to exist.

As planned, the Susquehanna/Salem transfer of the KENR license took March 3, 1995 with KENR Management continuing its programming on the station. On March 6, 1995, KENR Management concluded a one year LMA with Salem and through sister company Chameleon Radio, was awaiting the transfer of the license on KIOX. During

this time, Chameleon was actively engaged in searching for a suitable transmitter site southwest of Houston in order to have a form 301 request ready to present to the Commission as soon as the purchase of the facility could be consummated.

On April 5, 1995, Don Werlinger met at the Houston offices of Salem with Jamie Clark. It was on that date Werlinger told Clark that his company in fact, applied to purchase a station which he planned to relocate and move his programmers. Mr. Werlinger told Mr. Clark that he hoped to have the application filed by May 1st and to have a construction permit for the change by August and have construction completed and be on the air in the early fall.

Clark expressed surprise at Werlinger's information. He said he had not heard of the purchase by Chameleon but stated that Werlinger's timetable "will probably fit what we doing here with getting the FM up and running." Since KKHT (formerly KKZR) was of course on the air, Werlinger took Clark's statement regarding 'up and running' to mean the format on the FM station.

The next day, April 6, 1995, Clark wrote the two sentence letter included as Exhibit: 2 and mailed it via first class mail. As the exhibit shows, only one month into a one year agreement, with no violation of that agreement on the part of KENR Management, Salem, in violation of Section 28 of that agreement (included herewith as Exhibit: 3). Section 28 of the agreement is the "Notice" section which states; "any notice required hereunder shall be in writing and any payment, notice, or other communication shall be deemed given when delivered personally, or mailed by certified mail or Federal Express, postage prepaid...". Inasmuch as the "notice" sent from Clark's office to KENR Management was delivered on Monday, April 9th, via ordinary first class mail and not personally, certified mail, or Federal Express, KENR Management elected to ignore the effective date of 12:00 am, Sunday, May 7, 1995.

Two days later, April 11, 1995, Werlinger was contacted by a programmer who indicated he had been approached by Jamie Clark regarding programming on KENR after May 7th. Such contact was clearly in violation of Section 13 of the LMA; however, inasmuch as Salem paid not attention to the Notice provisions of the contract, a simple prohibition against tampering with KENR Management's clients would mean little.

The situation became clear; prior to Werlinger's conversation with Clark on April 5th, Salem had been under the impression that KENR Management would be unable to find another facility to which he could take his programmers and, at a time convenient to Salem, it could simply give KENR Management notice of termination and take the programmers it wished to keep, those which would pose no problems with its more numerous Christian programmers, and disregard the rest. When Werlinger disclosed on April 5th that a facility had been purchased and laid out a reasonable time table for accomplishing his stated goal of moving his programmers to that new facility, it became apparent to Salem that KENR Management did indeed have a viable alternative. If the opportunity to cherry pick KENR Management's list of clients were to be realized, it had

to occur quickly, hence the letter of termination dated April 6th, signed not by an officer of the corporation, but a hireling, and issued so quickly that no attention was paid to proper delivery to conform to the terms of the contract.

It was at this point that KENR Management made two key decisions. First, it elected for the time being to ignore Salem's "letter of termination." Secondly, the company moved ahead with all haste toward finding an acceptable transmitter site in southwest Houston to which it could move. A site was found in rural Harris County between the cities of Houston, Missouri City, and Stafford which would accommodate the daytime antenna array, but which at least initially, looked as though it would not work for the night array.

In order to accommodate the night pattern, KENR Management commenced negotiations with the U.S. Army Corps of Engineers to make use on a lease basis, of a portion of the Addicks Reservoir just west of Beltway 8 and north of Interstate 10. Though Corps personnel were very accommodating and made a diligent effort to find an area inside the reservoir, no suitable location could be found and it was decided to place the night array with the day array at the Riceville School Road site (See: Form 301 with exhibits).

KENR Management/Chameleon realized it was dealing with a predatory entity in Salem Communications and that it now had only a matter of weeks (not months as previously planned) before it had to be in place with another facility. The only possible chance for remaining a viable company lay in somehow receiving permission to make a change in the KIOX transmitter site through temporary authority and then presenting a completed FCC form 301 at a later date.

The decision was made to seek Special Temporary Authorization (STA) to relocate the KIOX (KFCC) transmitter site to the southwest Houston location while the Form 301. Immediately following closing on April 20, 1995, Chameleon sought an STA for the Houston site with a request for 1,000 watts daytime and 250 watts at night. The proposal sought to construct a new tower at the site which would become a part of what was then believed would be a three tower array. Eventually, in order to accommodate the night array, a fourth tower was utilized in the proposal.

John Vu, a member of the FCC's AM Branch staff, indicated he could grant an STA for the site, but would not allow the construction of a new tower for that purpose. Mr. Werlinger, who had either been a principal or a consultant in a number of STA requests through the years, reminded Mr. Vu of the fact that his predecessor, May Bradfield, had routinely granted construction of new towers in such cases. In fact, it is a virtual impossibility to use anything other than a newly constructed tower in AM STA's inasmuch as the guywires on any AM tower must be insulated with in-line insulators in order to accommodate the AM antenna.

Though Mr. Werlinger repeatedly argued his case with Mr. Vu regarding the tower construction. He pointed to several STA's in which he was aware that Ms. Bradfield had routinely granted minimum tower construction. He indicated that he had sought at least verbal clearance with the Federal Aviation Administration's Southwest Regional Office in Ft. Worth and had been assured by Bruce Beard of the FAA that the proposed 180' tower would not violate FAA minimums and as far as the FAA was concerned, there wasn't even the need for filing an FAA form 7460-1. Mr. Werlinger did; however, file the form to be conservative. Mr. Vu remained adamant that no new construction could take place.

During the course of a conversation on Tuesday, April 26, 1995, with Joe McClish of Economy RF Construction Company, an Austin, Texas communications tower erection company, Mr. McClish asked Mr. Werlinger if he (McClish) would be prohibited from erecting a tower 180 feet in height and leasing the tower to Chameleon once and if the STA were permitted. Mr. Werlinger relayed the FAA's opinion that a tower of that height would need no FAA filing. He also made it clear to Mr. McClish that he (Werlinger) had no authority from the FCC to commission construction of a tower and could not commit KIOX (KFCC) to using any such tower until and unless the STA was granted.

Mr. McClish stated he was aware of the fact that he was at risk of constructing a tower for which he would have no immediate tenant unless the STA request by Chameleon was approved. Nevertheless, he stated that if Chameleon would grant use of its land (which Chameleon held under a lease/purchase agreement) on a reasonably priced basis, his company would like to erect a tower and rent space to other tenants if Chameleon could not make use of the tower. Werlinger agreed and McClish stated he would have a tower erected prior to May 1, 1995.

On Saturday, April 29th, Mr. McClish drove from Austin and did the preparation work for the tower including pouring concrete foundations. By Monday, May 1, 1995 the Rohn model 25 tower was in place; however, nothing relating to a broadcast tower was on the site with the exception in line insulators in the guywires. All work was done at McClish's expense. No funds were passed from Chameleon or any principal in Chameleon toward the construction of the tower. In fact, nothing relating to broadcast equipment was placed on the site until after the grant of the STA. The folded unipole and ground system were installed on the tower owned by McClish following grant of the STA.

Although Mr. McClish had reasonable assurance from Chameleon that they would have a use for the tower in the not distant future, until the STA was actually granted, Mr. McClish had constructed a tower at his own risk with no funding from Chameleon and no formal agreement that any use of the tower would be made by KIOX (KFCC) prior to grant of the STA.



The tower was on land held under a lease purchase agreement by Chameleon; therefore, when Mr. Werlinger reported to Mr. Vu on Monday, May 1, 1995 that a tower was on the land and available for use by Chameleon, he in fact, was reporting the truth.

It was Friday, April 28, 1995 that Mr. Werlinger first heard from Jamie Clark regarding the April 6th "termination notice." Other than the first class mailed letter, nothing had been heard from Salem since Mr. Werlinger met with Mr. Clark on April 5th. In his telephone call on April 28th, Mr. Clark stated that he was calling to "start getting things wrapped up before we take over next week."

Werlinger stated he didn't know what Clark was talking about whereupon Clark referred to the letter. Mr. Werlinger stated that, even if KENR Management had received a letter from Salem, such a letter was delivered not by the terms of the contract, but rather by first class mail and as a result, KENR Management did not regard the letter as proper notice. Mr. Werlinger stated that Salem would be receiving KENR Management's notice of termination on Monday, May 1st and that KENR Management would consider the May 31st date the final day of the LMA. After some protestations, Mr. Clark told Mr. Werlinger that KENR Management would be hearing from Salem's legal counsel and hung up. No communication was forthcoming from Salem for the next six days.

That same day, April 28, 1995, KENR Management indeed issued a termination notice to Salem Communications, delivered properly on May 1, 1995, terminating the contract as of May 31, 1995. The reasoning behind the termination notice from KENR Management was Mr. Werlinger knew that, while Salem might argue that their letter had been a notice to terminate, it clearly violated terms of the LMA. Werlinger's presentation and proper delivery of a May 31st termination letter would clearly establish a date later than May 6th as the final date of the LMA.

At that point, Mr. Werlinger had an assurance from John Vu at the FCC that he (Vu) would issue an STA, but the question of a tower was still unanswered.

On Thursday, May 3rd, KENR/KFCC employee Vickey Scott was informed by a programmer that the programmer intended not to pay its May programming commitment because, "you (KENR Management) will not be on the air after Saturday night." When Ms. Scott asked the source of the programmer's information, she was told that the programmer had received the information from Jamie Clark.

When informed of this information, Mr. Werlinger telephoned Jamie Clark to warn Mr. Clark that contact by Salem to solicit business from KENR Management programmers was prohibited by Section 13 of the LMA. Mr. Werlinger demanded that Mr. Clark cease such contact where upon Mr. Clark denied initiating any contact with any KENR Management client and categorically any attempt to maneuver any clients away from KENR Management, a denial which would later be proved to be untrue.